

**Tom A. Alberg**  
President & Chief Executive Officer

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

April 24, 1996

**HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street N.W., Room 222  
Mail Stop Code 1170  
Washington D.C. 20554

DOCKET FILE COPY ORIGINAL

**Re: PersonalConnect Communications, L.L.C.  
Reply Comment in WT Docket No. 96-59  
Amendment of Part 20 and 24 of the Commission's Rules - Broadband  
PCS Competitive Bidding and the Commercial Mobile Radio Service  
("CMRS") Spectrum Cap**

Dear Mr. Caton:

PersonalConnect Communications, L.L.C. ("PersonalConnect"), submits the following reply comments in connection with the Commission's Notice of Proposed Rule Making ("NPRM") relating to the auctions for PCS spectrum.

Responses to the NPRM indicate nearly universal support from Designated Entities for a single simultaneous auction of the D, E and F spectrum blocks. Designated Entities agree generally that a single simultaneous auction will contribute to ensuring that the auction process will meet the Commission's goals of "avoiding excessive concentration of licenses" and "disseminating licenses among a wide variety of applicants, including small businesses". We concur with the comments by Professor Peter Crampton of the University of Maryland that "the FCC should extend installment payments for small businesses to the D and E blocks. Such a change would (1) enhance auction competition, (2) increase auction revenues, and (3) encourage diverse ownership." PersonalConnect further believes any delay in F block

licensing could fatally cripple the opportunity for Designated Entities to compete effectively. Moreover, the opportunity for Designated Entities simultaneously to bid in the D and E blocks will help to prevent egregious price differences that have occurred in the 30 MHz blocks between licenses set aside for small businesses, the C block, and those purchased by large firms, the A and B blocks.

Large telecommunications companies generally challenged the single simultaneous auction process in their comments. Their position, that the F block auction should not be held until after the close of the D and E blocks, was supported with claims that "the additional time would be advantageous for F block bidders...[they] would thus have time to form partnerships...[and] have additional time to secure financing." This has little support in the record of comments by Designated Entities themselves.

Large telecommunications companies also challenged a single simultaneous auction on procedural grounds that "because the eligibility rules for the F block licenses differs, it would make sense to conduct the auction for that block separately. Moreover, should a legal challenge arise that might delay an auction or taint its results, the licenses auctioned separately would not be affected." PersonalConnect believes that the Commission has established a strong record of conducting large and complicated auctions while supporting varied eligibility and incentive provisions. We don't believe that the Commission, with its extensive auction experience, will have any difficulty administering the proposed single simultaneous auction of the D, E and F blocks. PersonalConnect also believes that through this process of comment and reply and the extensive decision making record, the Commission will have adequate support to defend and deter any legal challenge.

PersonalConnect strongly supports proposals to apply all entrepreneur's block and small business preferences to the D and E blocks. PersonalConnect continues to stress that a 25% discount to prices paid by large corporations is the essential feature that will enable Designated Entities to attract equity investors. Although the installment payment plan is extremely helpful to small businesses, it is not as essential as the 25% discount in attracting equity investors. The 25% bidding credit provides a direct incentive to the Designated Entities and mitigates the significant dilution that outside investors must accept in order to invest in Designated Entities under the Commission's rules.

A number of commentators, along with PersonalConnect, supported the view that a larger downpayment should be required to decrease the risk of default and speculation by small businesses. Because of the high prices paid by Designated Entities who win C Block licenses, several of them may fail to find lenders and investors to provide the additional financing they will need for their down payments and network buildout given the extremely high level of debt that many Designated Entities will carry.

Go Communications proposed as an alternative that bidders be required to have at all times a bid deposit equal to at least 20% of their bid. A modification of this would be to permit bidders to increase their bid deposits as they increased their bids. Although this proposal would have some desirable affects, we think that it would cause excessive harm to Designated Entities and should not be adopted because it would dramatically increase the burden on Designated Entities of having millions of dollars on deposit which do not earn any interest. This would likely further inhibit the ability of Designated Entities to attract sufficient capital to participate in the auctions. It is impossible to expect that defaults can be totally eliminated in the environment of auctions and competitive bidding, and we hope that the Commission will not adopt solutions that undercut the ability of Designated Entities to participate effectively in the auctions.

We support the proposal by Airlink of placing a population based restriction of 27 million pops on bidding eligibility and license acquisition because it would be a constructive step in reducing the likelihood of defaults and, more importantly, in increasing the diversity of license holders. This cap should presumably be limited to the F block.

PersonalConnect also continues to believe that limiting bidders to a single 10 MHz license in each market is a simple, supportable and fair method to ensure wide spectrum dissemination and reduce anti-competitive warehousing of spectrum. Resistance to this position is based around the notion that service providers need more than 10 MHz of spectrum.

With the existing two cellular carriers, each having 25 MHz and three PCS carriers, each having 30 MHz, the public need is not for more full service competitors with 20 to 30 MHz or more of spectrum. The public need is for new providers who will develop new services that are currently ignored by those constructing large

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mobile voice systems. New services such as wireless data (Internet access) and fixed wireless in the local loop can be deployed using 10 MHz. The best way to encourage such new services is to encourage more 10MHz competitors by limiting bidders to a single 10 MHz license in each market in the D, E and F bands.

Most commentators who addressed the issue supported the concept of permitting the transfer of licenses by Designated Entities to other Designated Entities without having to wait for three years. Several also supported the concept, which we continue to endorse, of permitting geographic and bandwidth partitioning (into blocks of at least 5 MHz). Such partitioning and transfers will encourage more rapid deployment of both "standard" and truly new advanced wireless services. For partitioning and transfers to be effective, the Commission will also have to develop rules that provide that purchasers obtain clear title to the spectrum, free of potential defaults by the original holder of the spectrum.

Thank you for this opportunity to provide our comments.

Sincerely,

PersonalConnect Communications, L.L.C.

By   
Tom A. Alberg, Chairman and CEO

cc: Chairman, Reed E. Hundt  
Commissioner, Rachelle B. Chong  
Commissioner, Susan Ness  
Commissioner, James H. Quello  
Commentors - (see attached Exhibit A)

## **Exhibit A**

Shelley Spencer  
Airlink, L.L.C.  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007

Glemm S. Rabin  
Federal Regulatory Counsel  
Alltel Services Corporation  
655 15th Street, N.W.  
Suite 220  
Washington, D.C. 20005

James U. Troup  
Arter & Hadden  
1801 K Street, N.W.  
Suite 400K  
Washington, D.C. 20006  
Attn: Iowa L.P.136

James U. Troup  
Arter & Hadden  
1801 K Street, N.W.  
Suite 400K  
Washington, D.C. 20006  
Attn: Mountain Solutions

James U. Troup  
Arter & Hadden  
1801 K Street, N.W.  
Suite 400K  
Washington, D.C. 20006  
Attn: Telephone Electronics Corporation

Laurie L. Arthur  
4513 Pin Oak Court  
Sioux Falls, South Dakota 57103  
Attn: New Dakota Investment Trust

Cathleen A. Massey  
AT&T Wireless Services, Inc.  
1150 Connecticut Avenue, N.W.  
4th Floor  
Washington, D.C. 20036

Carressa D. Bennet  
Bennet & Bennet, PLLC  
1831 Ontario Place, N.W.  
Suite 200  
Washington, D.C. 20009  
Attn: Ad Hoc Rural PCS Coalition

David J. Kaufman  
Brown Nietert & Kaufman, Chartered  
1920 N Street, N.W., Suite 660  
Washington, D.C. 20036  
Attn: Antigone Communications Limited Partnership

James F. Ireland  
Cole, Raywid & Braverman, L.L.P.  
1919 Penneylvania Avenue, NW  
Suite 200  
Washington, DC 20554  
Attn: North Coast Mobile Communications, Inc.

William D. Chamblin III  
President  
Conestoga Wireless Company  
661 Moore Road  
King of Prussia, PA 19406

Leonard J. Kennedy  
Dow, Lohnes & Albertson  
A Professional Limited Liability Company  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
Attn: Devon Mobile Communications, L.P.

Joe D. Edge  
Drinker Biddle & Reath  
901 Fifteenth Street, NW  
Suite 900  
Washington, D.C. 20005  
Attn: Cook Inlet Region, Inc.

Steven N. Teplitz  
Fleischman and Walsh, L.L.P.  
1400 Sixteenth Street, N.W.  
Washington, D.C. 20036  
Attn: American Women in Radio and Television

Thomas E. Taylor  
Frost & Jacobs  
2500 PNC Center  
201 East Fifth Street  
Cincinnati, Ohio 45202  
Cincinnati Bell Telephone

Steven A. Zecola  
GO Communications Corporation  
201 N. Union St. Suite 410  
Alexandria, VA 22314

Melodie A. Virtue  
Haley Bader & Potts P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
Attn: Gulfstream Communications, Inc.

Ashton R. Hardy  
Hardy and Carey, L.L.P.  
111 Veterans Boulevard - Suite 255  
Metairie, LA 70005  
Attn: Radiofone, Inc.

Charles H. Carrathers III  
Hunton & Williams  
951 East Byrd Street  
Richmond, Virginia 23219  
Attn: The Virginia PCS Alliance, L.C.

George Y. Wheeler  
Koteen & Naftalin  
1150 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Attn: Telephone and Data Systems, Inc.

Andre J. Lachance  
1850 M Street, N.W.  
Suite 1200 Washington, D.C. 20036  
Attn: GTE Service Corporation

Jim O. Llewellyn  
1155 Peachtree Street, N.E.  
Suite 1800  
Atlanta, GA 30309-2641  
Attn: Bellsouth Corporation

David L. Nance  
Lukas McGowan Nance & Gutierrez, Chartered  
1111 Ninteenth Street, N.W., Suite 1200  
Washington, D.C. 20036  
Attn: Liberty Cellular, Inc.

Gerald S. McGowan  
Lukas McGowan Nance & Gutierrez, Chartered  
1111 Ninteenth Street, N.W., Suite 1200  
Washington, D.C. 20036  
Attn : PCS Development Corporation

Jack E. Robinson  
President  
National Telecom PCS, Inc.  
Clearwater House  
2187 Atlantic Street  
Stamford, CT 06902

David Cosson  
National Telephone Cooperative Association  
2626 Pennsylvania Avenue, N.W.  
Washington, D.C. 2007

Paul C. Besozzi  
Patton Boggs, L.L.P.  
2550 M Street, N.W.  
Washington, D.C. 20037  
Attn: Vanguard Cellular Systems, Inc.

Mark J. Golden  
Vice President of Industry Affairs  
Personal Communications Industry Association  
500 Montgomery Street  
Suite 700  
Alexandria, VA 22314-1561

David S. Rendall  
President  
Rendall and Associates  
5000 Falls of Neuse Road  
Raleigh, NC 27609

Jay L. Birnbaum  
Skadden, Arps, Slate, Meagher & Flom  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
Attn: Cellular Communications of Puerto Rico, Inc.

Jay Keithley  
Sprint Corporation  
1850 M Street, N.W.  
Suite 1100  
Washington, D.C. 20036

R. H. Moore  
President and Chief Executive Officer  
U.S. Intelco Wireless Communications, Inc.  
PO Box 8  
Olympia, Washington 98507-008

Jeffrey S. Bork  
US West  
1020 19th Street, NW Suite 700  
Washington DC, 20036



Lawrence J. Movshin  
Wilkinson, Barker, Knauer & Quinn  
1735 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20006-5289  
Attn: Community Service Communications, Inc.

Philip L. Verveer  
Willkie Farr & Gallagher  
1155 21st Street, N.W., Suite 600  
Three Lafayette Centre  
Washington, D.C. 20036-3384  
Attn: Cellular Telecommunications Industry Association

Lynn R. Charytan  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, D.C. 20037  
Attn: DCR Communications, Inc.

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I certify on this, 24<sup>th</sup> day of April, 1996, I Christopher M. Brookfield did, in fact, place in the U.S. Postal Service for mail to each of the participants listed above.



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Christopher M. Brookfield